

**CENTRAL PUGET SOUND
GROWTH MANAGEMENT HEARINGS BOARD
STATE OF WASHINGTON**

CAMWEST DEVELOPMENT, INC.,)	
CONNER HOMES COMPANY, JOHN F.)	Case No. 05-3-0012
BUCHAN CONSTRUCTION, INC.,)	
LOZIER AT GRAMERCY PARK, LLC,)	<i>(Camwest)</i>
PACIFIC LAND INVESTMENT, INC.,)	
WILLIAM BUCHAN HOMES, INC.,)	
WINDWARD REAL ESTATE SERVICES,)	
INC., MASTER BUILDERS)	ORDER FINDING
ASSOCIATION OF KING AND)	CONTINUING
SNOHOMISH COUNTIES, SAMUEL and)	NONCOMPLIANCE and
JOAN BELL, JANE CATTERSON,)	ESTABLISHING A SECOND
THEODORE and PHYLLIS MCINTYRE,)	COMPLIANCE SCHEDULE
JAMES and JEANINE PRUITT, JACK and)	
PAMELA SKEEN, YADONG WANG, and)	
ROBERT and LINDA WELSH,)	
)	
Petitioners,)	
)	
v.)	
)	
CITY OF SAMMAMISH,)	
)	
Respondent.)	
)	

I. BACKGROUND

On April 1, 2005, the Board issued its Order Finding Noncompliance – Failure to Act [failure to update implementing development regulations, including critical areas regulations]. The Order Finding Noncompliance contained the following findings and conclusions:

- RCW 36.70A.130(1)(a) required the City of Sammamish to “take legislative action to review, and if needed, revise its comprehensive land use plan and development regulations to ensure the plan and regulations comply with the requirements of [the GMA]” by December 1, 2004. *See* RCW 36.70A.130(4)(a).
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- The City of Sammamish concedes that it has not acted to complete the update of its implementing development regulations as required by RCW 36.70A.130(1)(a) and (4)(a).

- Therefore the Board will enter an Order Finding Noncompliance – Failure to Act [regarding the City of Sammamish’s implementing development regulations and critical areas regulations].
- The Board will set forth a compliance schedule within which the City shall take the required action to update and revise its implementing development regulations.

Order Finding Noncompliance, at 4-5.

The compliance schedule established by the Board’s order gave the City 180 days, from the date of the FDO, to achieve compliance. The compliance schedule was set forth as follows: 1) by September 29, 2005, the City is to take appropriate legislative action to comply with the Act; 2) the City is to file a statement of actions taken to comply (**SATC**) with the Board by October 10, 2005; and 3) October 17, 2005, was the date set for the compliance hearing.

On October 10, 2005, the Board received a letter from the City requesting a revision to the compliance schedule to allow the City until December, 2005, to bring its development regulations into compliance. The City’s letter was attached to a notebook entitled “Critical Areas Ordinance Update 2005,” containing a number of exhibits concerning the work plan and process to date on updating the City of Sammamish critical areas regulations.

On October 14, 2005, the Board received a letter from Petitioners. While objecting to the City’s actions on other grounds, Petitioners’ letter stated: “Petitioners do not object to the City’s request for an extension to the end of the year because of the legislative amendments made to RCW 36.70A.130 since the Board’s Order in this case.”

On October 17, 2005, at 10:00 a.m., the Board convened the Compliance Hearing by telephonic conference. Board Members Margaret Pageler and Bruce Laing were present for the Board. Bruce Disend represented the City of Sammamish, and Duana Kolouvska represented Petitioners. The Board indicated to the parties that, in light of the City’s progress on its critical areas ordinance revisions and the Legislature’s 2005 amendment to RCW 36.70A.130, the Board will issue an order finding continuing noncompliance and establishing a new compliance schedule to December, 2005.

II. DISCUSSION

Since the City indicates that the City was not able to adhere to the maximum 180-day compliance schedule established in the FDO, and the City has asked for more time to complete its public process for the compliance proceeding, the Board will construe the City’s letter as a stipulation that the City of Sammamish is in continuing noncompliance in the *Camwest* matter (CPSGMHB Case No. 05-3-0012).

The Legislature in 2005 acknowledged that some jurisdictions have not completed the required updates to comprehensive plans and development regulations by the statutory deadlines. RCW 36.70A.130 was amended by adding new Subsection 10 as follows:

(10) Until December 1, 2005, ... a county or city subject to the time periods in subsection (4a)(a) of this section demonstrating substantial progress towards compliance with the schedules in this section for its comprehensive land use plan and development regulations may receive grants, loans, pledges, or financial guarantees from those accounts established in RCW 43.155.050 and 70.146.030. A county or city that is fewer than twelve months out of compliance with the schedules in this section for its comprehensive land use plan and developments regulations is deemed to be making substantial progress towards compliance.

The Board finds that the City of Sammamish is fewer than twelve months out of compliance with the time periods of RCW 36,70A.130(4)(a) and is proceeding on a work program to complete and adopt its updated critical areas ordinance by December 2005. The Board therefore finds and concludes that the City of Sammamish is making substantial progress toward compliance with the statutory deadlines.

III. ORDER

Based upon the Board's review of the GMA, the Board's Rules of Practice and Procedure, the Order Finding Noncompliance – Failure to Act [failure to update implementing development regulations, including critical areas regulations], the submittals of the parties, having discussed the matter with the parties at the Compliance Hearing, and having deliberated on the matter the Board ORDERS:

- In the matter of *Camwest, et al., v. City of Sammamish*, CPSGMHB Case No. 05-3-0012, the City has stipulated that it was unable to adhere to the timeframe set forth in the compliance schedule in the Board's April 1, 2005, Order Finding Noncompliance – Failure to Act. The City has requested more time to complete the public process prior to taking legislative action to comply with the GMA. Therefore, **the Board finds the City of Sammamish is in continuing noncompliance in this matter.**
- The City of Sammamish is implementing a public process to review and revise its critical areas ordinances, with anticipated City Council adoption by December 2005. Therefore, pursuant to RCW 36.70A.130(10), the Board finds that **the City of Sammamish is making substantial progress toward compliance with the statutory deadline.**
- The Board hereby establishes a second compliance schedule for the City as set forth below.

1. By no later than **December 30, 2005**, the City of Sammamish shall take appropriate legislative action to comply with the development regulations update requirements of RCW 36.70A.130.
2. By no later than **January 13, 2006**, the City of Sammamish shall file with the Board an original and four copies of the legislative enactment(s) adopted by the City of Sammamish to comply with RCW 36.70A.130 along with an statement of how the enactments comply with RCW 36.70A.130 (**Statement of Actions Taken to Comply - SATC**). The City shall simultaneously serve a copy of the legislative enactment(s) and compliance statement on Petitioner.
3. Pursuant to RCW 36.70A.330(1), the Board hereby schedules the Compliance Hearing in this matter for **January 23, 2006** at the Board's offices at 10:00 a.m. or immediately following the hearing on the merits in CPSGMHB Case No. 05-3-0041. The only matter at issue at this compliance proceeding will be whether the City of Sammamish has enacted the required update(s) to its development regulations. The substance of those development regulation updates will not be part of the compliance proceeding in this case – CPSGMHB Case No. 05-3-0012 – but must be brought through a new petition for review.

If the City of Sammamish takes the required legislative action prior to the December 30, 2005 deadline set forth in this Order, the City may file a motion with the Board requesting an adjustment to this compliance schedule.

So ORDERED this 20th day of October 2005.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

Bruce C. Laing, FAICP
Board Member

Edward G. McGuire, AICP
Board Member

Margaret A. Pageler
Board Member